

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT 1853

Date of Decision: 20 March 2020

#### Complaint

The customer, [redacted], challenged the charges for his caravan park for highways drainage. He stated that these should not be levied against him because the drains in his site go to the River [redacted] and not to the public sewer network. The customer requested his water retailer (KLM) arrange a new survey at his premises to be carried out by the water wholesaler (RST Water). He is seeking the removal of his highway drainage charges and a rebate for the monies already paid (£4,460.25).

#### Defence

The company KLM (KLM) stated that as the customer's premises are connected for the surface water drainage, the customer must also pay for the highway drainage. With regards to the requested survey, KLM passed the request to the wholesaler, but it was denied because a survey was carried out in August 2018 and the customer has not shown changes in the premises since then. Hence, the company submitted that the water charges were accurate.

#### Findings

The customer's site is connected for surface water drainage and he is charged at band 2. In addition, he is paying for highway drainage at band 6. As these are two separate charges, I find that they can be dissociated. As the customer submitted that these charges are not applicable, I order KLM to request the wholesaler to carry out a new survey in light of this decision. If the survey shows that the highway drainage does not enter into the public sewer, then it will be for the wholesaler to assess the applicable rebate to the customer.

#### Outcome

The company is required to request the wholesaler to carry out a new survey and to calculate if a rebate is applicable based on the results of the updated survey if undertaken.

**The customer must reply by 21 April 2020 to accept or reject this decision.**

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## Party Details

**Customer:** Mr [ ] representing [ ].

**Companies:** KLM, a water and sewerage company.

## Case Outline

### **The customer's complaint is that:**

- He is being charged £234.75 every month for water highway drainage that does not use the public sewer (i.e. the wholesaler sewer network).
- The water coming down from public paths and the rainwater that falls on his site go instead to the River [ ].
- He requested the company to carry out a new survey to confirm that the highway drainage is not using the sewerage system, but the company refused to do so.
- His claim is for a new survey and a rebate on the payments made for highway drainage.

### **The company's response is that:**

- The site was surveyed on 14 August 2018 by the wholesaler, which found that the highway drainage is applicable for the entire site that measures 3,864m<sup>2</sup>.
- The wholesaler notified the retailer that the customer should be charged at band 2 for surface water and at band 6 for highway drainage.
- The survey found that most of the site was unconnected for surface water highway drainage, except for the office, toilet block and a small hardstanding area near the toilet block. It was confirmed that the surface water from these areas drains to the foul line, which then enters the public sewer.

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- As the site is connected to the public sewer for foul sewerage, highway drainage remains payable. All customers that have a waste connection are also liable for highway drainage charges.
- The wholesaler is not prepared to re-survey the site unless the customer demonstrates that he has made changes to the site since the last visit.

### How is a WATRS decision reached?

In reaching my decision, I have considered two key issues. These are:

1. Whether the company failed to provide its services to the customer to the standard to be reasonably expected by the average person.
2. Whether or not the customer has suffered any financial loss or other disadvantage as a result of a failing by the company.

If the evidence provided by the parties does not prove both of these issues, the company will not be directed to do anything.

I have carefully considered all of the evidence provided. If I have not referred to a particular document or matter specifically, this does not mean that I have not considered it in reaching my decision.

### How was this decision reached?

1. It is helpful at this point to set out the limits of the scope of the Water Redress Scheme in respect of the company. The company is a water retailer, billing the customer for the water services provided by the water wholesaler, RST Water. In order to make a decision in this dispute, I must clearly distinguish between actions taken by the wholesaler, and the duty owed by the retailer, the company, to its customers. Since the water market in England opened up to retailers in April 2017, all non-household customers and accounts have been moved to a wholesale/retail split service. As a result, a non-household customer now only has a relationship with the retailer. In turn, the adjudicator operating under the Water Redress Scheme may only make findings related to those things for which the retailer, a party to the case, has responsibility, but not those things for which the wholesaler has responsibility.

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2. I find that KLM (KLM) received a notification from the wholesaler advising how it needed to charge the customer for surface water highway drainage. The wholesaler confirmed on 26 June 2019 that the customer's premises should be updated and charged at band 2 for surface water and at band 6 for highway drainage.
3. Following the rebilling of his account, the customer contacted KLM on 1 July 2019, and informed the company that all the rain water drains into the river. Pursuant the suggestion by KLM, the customer made an application to request a site area review from the wholesaler, which was submitted to the wholesaler on the 22nd July 2019; a response was received back from the wholesaler on 6 August 2019. The wholesaler advised that a site visit had already been carried out on the 14th August 2018 and during this visit it was confirmed that the site was partially connected for surface water drainage. Thus, as the site was connected to the public sewer for foul sewerage, the company submitted that the highway drainage is also applicable for the entire site. Since the site measures 3,864m<sup>2</sup>, the charges were placed at band 6. The wholesaler stated that unless the customer had made changes to the drainage for the areas connected to the foul sewerage, a further visit would just confirm the current charges.
4. I am mindful that the company stated that as the customer's site is connected to the public sewer for foul sewerage, the highway drainage remains payable. The company also stated that the highway drainage is a charge which the wholesaler applies to recover the costs for the disposal of rainwater which enters the public sewer from roads throughout the entire region, and it does not just relate specifically to the roads in the locality of the premises.
5. However, I note that there are two separate charges made by the company, one for the surface water (i.e. the office, the toilet and the hardstanding area --the latter area is disputed by the customer) and one for the highway water (i.e. rainfall water) and that customers are entitled to a rebate if they are not using the sewerage network for highway drainage.
6. I also note that the Consumer Council for Water (CCW) recommended the company to request a further survey whilst the customer is present so that he could validate the site area used to dictate his banding for highways drainage. I am mindful that the wholesaler opposed to conduct a new survey because the customer had not demonstrated that he had made any changes, such as installing a septic tank, to the site since the first survey of 2018. However, the customer has attached photographic evidence and a map showing how the highway water is diverted to

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the river. Moreover, the customer has also stated that this year alone he had spent £2,590.00 on drains in his site to enable the rainwater to go to the River [                      ].

7. I acknowledge that while the company has not failed to provide its services to the standard required as it acted in accordance to the information provided by the wholesaler, and in view of the further evidence provided by the customer, I consider that it would be reasonable for the customer to expect the company to make a further request to the wholesaler.
8. In light of the above, I find that given that: (1) the charges for surface and highway water drainage are accounted separately, (2) it is possible to obtain a rebate for highway drainage that does not use the sewerage network managed by the wholesaler, and (3) that the customer invested this year in creating drains in his site, I find that the customer has provided sufficient reasons to justify a new request to the wholesaler for a new survey to determine whether the highway water goes to the river or uses the sewerage network. Therefore, I order the company to make a new request to the wholesaler to carry out a survey in the customer's site.
9. If the new survey does not change the current charges, then the customer can be required to cover the cost of the survey. However, if there are any changes in the payment of the highway drainage, then the customer will not be charged for the survey and the wholesaler will calculate the applicable rebate based on the results of the updated survey.
10. In view of the above, I direct the company to request the wholesaler to carry out a new survey and to calculate if a rebate is applicable based on the results of the updated survey if undertaken.

#### **Outcome**

The company is required to request the wholesaler to carry out a new survey and to calculate if a rebate is applicable based on the results of the updated survey if undertaken.

#### **What happens next?**

- This adjudication decision is final and cannot be appealed or amended.

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- The customer must reply by 21 April 2020 to accept or reject this decision.
- If you choose to accept this decision, the company will have to do what I have directed within 20 working days from the date on which WATRS notifies the company that you have accepted my decision. If the company does not do what I have directed within this time limit, you should let WATRS know.
- If you choose to reject this decision, WATRS will close the case and the company will not have to do what I have directed.
- If you do not tell WATRS that you accept or reject the decision, this will be taken to be a rejection of the decision. WATRS will therefore close the case and the company will not have to do what I have directed.

A handwritten signature in black ink, appearing to be 'Pablo Cortés', written over a horizontal line.

**Pablo Cortés Licenciado LLM, PhD**

**Adjudicator**

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